

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 549 of 2016

- Chandrabhan Mishra S/o Shri Ramlakhan Mishra, Aged About 42 Years Govt. Teacher R/o Village & Tehsil Bastar, District Bastar Chhattisgarh

---- Petitioner

Versus

1. Smt. Mamta Mishra W/o Shri Chandrabhan Mishra, Aged About 39 Years R/o Behind Ekta Building, Gharola Mohalla, Shahdol District Sahdol M.P.
2. Family Court, Bilaspur Chhattisgarh

---- Respondent

For Petitioner

Shri S. K. Bajpai, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

14/09/2016

1. In a suit for divorce preferred by the petitioner, who is a resident of Jagdalpur and the other party being resident of Shahdol, the trial Court has closed his evidence and has further proceeded to examine the defendant's witnesses without being cross-examined by the petitioner.
2. On an earlier occasion, the Family Court has observed that deciding a matrimonial dispute by closing evidence may not be appropriate, however, when petitioner failed to produce his evidence, the Family Court was constrained to close his evidence and proceeded to examine the opposite party's witnesses.

3. It is argued that the petitioner is ready and willing to contest the application on merits, however, he being a resident of Village Bastar near Jagdalpur is required to take care of his old aged parents, therefore, due to unavoidable circumstances, he could not make it possible to attend the Court on the date when it was fixed for evidence. It is submitted that the petitioner is ready to pay cost for his failure to appear and for the inconvenience caused to the other party, therefore, in the interest of justice, one opportunity may be provided to adduce evidence.
4. Considering the entirety of the circumstances, particularly the fact that the present is a matrimonial dispute and the petitioner's counsel has repented for his failure to attend the Court, ends of justice would be served if the petitioner is allowed one opportunity to lead evidence subject to payment of cost to the other party, therefore, it is directed that on petitioner's paying cost of Rs.2,000/- to the respondent within 3 weeks, the trial Court shall fix a date for recording the statements of petitioner and his witnesses and thereafter provide opportunity to the petitioner to cross-examine the respondent and her witnesses. The trial Court shall decide the suit within an outer limit of 6 months from today.
5. The writ petition stands disposed of in the above stated terms.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA